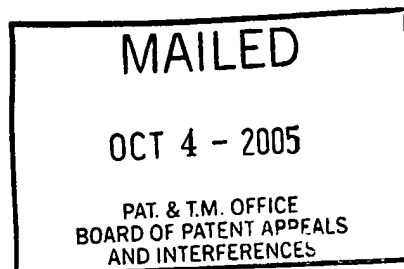




# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Michael P. Tierney  
Telephone: 571-272-9797  
Facsimile: 571-273-0042



Applicants: LUO  
Application No.: 09/762,491  
Filed: 05/09/01  
For: Novel apoptosis proteins

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,360.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Michael P. Tierney  
MICHAEL P. TIERNEY  
Administrative Patent Judge

Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Filed: 4 October 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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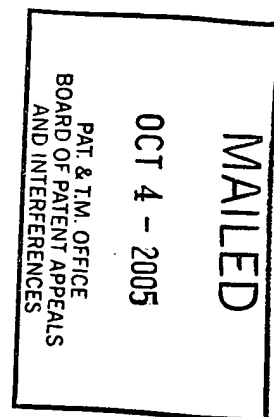
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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BRUCE C. **GOMES**, GARRETT M. KASOF  
and JUDITH C. PROSSER,  
Junior Party  
(U.S. Patent No. 6,267,956),

v.

YING **LUO**, BETTY HUANG,  
MARY SHEN and PEIWEN YU,  
Senior Party  
(U.S. Patent Application No. 09/762,491).



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Patent Interference No. 105,360  
(Technology Center 1600)

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**DECLARATION - Bd.R. 203(d)**

Before Michael P. Tierney, Administrative Patent Judge.<sup>1</sup>

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the

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<sup>1</sup>As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.

count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

Administrative Patent Judge Michael P. Tierney has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

**Part C. Standing order**

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

**Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **2:00 p.m. on December 1, 2005** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

A copy of default times for taking action during the preliminary motion phase of the interference accompanies the NOTICE DECLARING INTERFERENCE. Counsel should be prepared to justify altering the default times.

The Board is conducting an electronic filing and a DVD pilot project. Copies of the procedures are attached to this order. Counsel should be prepared to discuss participation in the electronic filing pilot project.

**Part E. Identification and order of the parties**

Junior Party

Named Inventors:	BRUCE C. GOMES, MD GARRETT M. KASOF, DE JUDITH C. PROSSER, DE
Patent:	U.S. Patent No. 6,267,956, which issued on July 31, 2001 from U.S. Application 09/531,914, filed March 21, 2000
Title:	Protein Activator and Apoptosis
Assignee:	Zeneca Ltd.
Accorded Benefit:	U.S. Application No. 09/329,418, filed June 10, 1999, now U.S. Patent No. 6,096,539, issued August 1, 2000

Senior Party

Named Inventors: YING LUO, CA  
BETTY HUANG, CA  
MARY SHEN, CA  
PEIWEN YU, CA

Application: U.S. Application No. 09/762,491, filed May 9, 2001

Title: Novel Apoptosis Proteins

Assignee: Rigel Pharmaceuticals

Accorded Benefit: PCT/US99/17776, filed August 6, 1999  
U.S. Provisional Application 60/099,486, filed Sept. 8, 1998

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.

**Part F. Count and claims of the parties**

**Count 1**

A protein according to U.S. Application 09/762,491 claim 12 or U.S. Patent 6,267,956 claim 1.

The claims of the parties are:

Gomes U.S. Patent '956: 1-5  
Luo U.S. Application '491: 1-5, 7-20, and 25-30

The claims of the parties which correspond to Count 1 are:

Gomes U.S. Patent '956: 1-5  
Luo U.S. Application '491: 12-17, 19-20, and 25-27 and 29-30

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Gomes U.S. Patent '956: None  
Luo U.S. Application '491: 1-5, 7-11, 18 and 28

**Part G. Heading to be used on papers**

The heading in SO Form 1 must be used on all papers filed in this interference.

See SO ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Michael P. Tierney)

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BRUCE C. **GOMES**, GARRETT M. KASOF  
and JUDITH C. PROSSER,  
Junior Party  
(U.S. Patent No. 6,267,956),

v.

YING LUO, BETTY HUANG,  
MARY SHEN and PEIWEN YU,  
Senior Party  
(U.S. Patent Application No. 09/762,491).

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Patent Interference No. 105,360  
(Technology Center 1600)

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#### **Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

#### **Part I. Required paragraph for affidavits and declarations**

The Board has recently experienced a rash of cases in which a witness has belatedly advanced reasons why he or she would be unable to appear for cross examination at a reasonable time and place in the United States. Consequently, the Board is requiring the following paragraph to be included on the signature page of all affidavits (including declarations) filed in this case to prevent surprise and hardship to the party relying on the testimony of the witness:

In signing this affidavit/declaration, I recognize that the affidavit/declaration will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.



Enc:

- (1) Copy of STANDING ORDER
- (2) Copy U.S. Patent 6,267,956
- (3) Copy of claims of U.S. Application 09/762,491
- (4) Copy of default time for taking action
- (5) Copy of procedures regarding electronic filing
- (6) Copy of procedures regarding DVD pilot project

Revised January 2005

cc (via overnight delivery):

Counsel for **GOMES**:

ASTRA ZENECA PHARMACEUTICALS LP  
Global Intellectual Property  
1800 Concord Pike  
Wilmington, DE 19850-5437

Counsel for **LUO**:

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, CA 94111-3834

	Int. 105,360		Page H		Tab 19				
<b>Preliminary Motions--Default times for taking action</b>									
Enter									
Declaration date				10/04/05					
		Calculate		Enter		Calculate		Description	
		Date		Weeks		Days			
Declaration		10/04/05		0		0			
Real party		10/18/05		2		14			
Request for file		10/18/05		2		14			
Clean copy claims		10/18/05		2		14			
Means analysis		11/01/05		4		28			
Drawing analysis		11/01/05		4		28			
P/M list		11/29/05							
Conference Call		12/01/05		8		56			
Time Period		1	01/12/06		6	42		Preliminary motions due	
Object evidence		01/19/06				7		1	
Correct evidence		02/02/06				14		2	
Time Period		2	02/02/06		3	21		I & j preliminary motions	
Object evidence		02/09/06				7		1	
Correct evidence		02/23/06				14		2	
Cross can begin		02/23/06				21		3	
Cross must end		03/06/06							
Time Period		3	03/16/06		6	42		Oppositions due	
Object evidence		03/23/06				7		1	
Correct evidence		04/06/06				14		2	
Cross can begin		04/06/06				21		3	
Cross must end		04/17/06							
Time Period		4	04/27/06		6	42		Replies due	
Object evidence		05/04/06				7		1	
Correct evidence		05/18/06				14		2	
Cross can begin		05/18/06				21		3	
Cross must end		05/29/06							
Time Period		5	06/08/06		6	42		Request for hearing, motion to suppress and & x-exam observations	
Time Period		6	06/29/06		3	21		Suppression opposition & response to observations	
Time Period		7	07/13/06		2	14		Suppression reply	
Time Period		8	07/20/06		1	7		File record	
Oral argument		9	08/17/06		4	28		Oral argument	
P/m decision		10	09/21/06		5	35		Decision on p/m	
Total Weeks from conference call to Time Period 8					33				
Total weeks from declaration to Time Period 8					41				
Total weeks from declaration to decision on p/m					50				
a									